

## SUMMARY ANALYSIS OF AMENDED BILL

Author: Bowen Analyst: Colin Stevens Bill Number: AB 2165

Related Bills: SB 1496 (1998) Telephone: 845-3036 Amended Date: 4/21/98

Attorney: Doug Bramhall

Sponsor:

**SUBJECT:** Business Expense Deduction/Environmental Remediation Expenses Conformity

- ☒ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced FEBRUARY 19, 1998.
- ☐ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- ☐ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended \_\_\_\_\_.
- ☐ FURTHER AMENDMENTS NECESSARY.
- ☐ DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.
- ☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED FEBRUARY 19, 1998, STILL APPLIES.
- ☐ OTHER - See comments below.

### SUMMARY OF BILL

Under the Personal Income Tax Law (PITL) and the Bank and Corporation Tax Law (B&CTL), this bill would conform to Internal Revenue Code (IRC) Section 198 as added by the Taxpayer Relief Act of 1997 (TRA), relating to "brownfields," and would allow taxpayers to deduct the cost of any qualified environmental remediation expenditure relating to a property located within California.

### SUMMARY OF AMENDMENT

The April 21, 1998, amendments:

- clarify that this bill would conform to brownfields expensing as added to the Internal Revenue Code by the TRA of 1997;
- restrict qualified remediation expenditures to properties located in California; and
- make a technical correction to clarify that the deduction under B&CTL would be allowed for income and not taxable years.

These amendments were proposed in the department's analysis of the bill as introduced February 19, 1998. Except for the amendments, the resolution of the concerns corresponding to these amendments, and the Franchise Tax Board's

DEPARTMENTS THAT MAY BE AFFECTED:

\_\_\_ STATE MANDATE

\_\_\_ GOVERNOR'S APPOINTMENT

Board Position:

☒ X ☐ S ☐ O  
☐ SA ☐ OUA  
☐ N ☐ NP  
☐ NA ☐ NAR  
☐ PENDING

Agency Secretary Position:

☐ S ☐ O  
☐ SA ☐ OUA  
☐ N ☐ NP  
☐ NA ☐ NAR  
☐ DEFER TO \_\_\_\_\_

**GOVERNOR'S OFFICE USE**

Position Approved \_\_\_\_\_  
Position Disapproved \_\_\_\_\_  
Position Noted \_\_\_\_\_

Department/Legislative Director Date  
**Johnnie Lou Rosas** **5/1/98**

Agency Secretary Date

By: Date:

position, the department's analysis of the bill as introduced February 19, 1998, still applies. The policy and technical considerations that still apply are reiterated below. One additional policy concern regarding elections also is noted.

#### Policy Considerations

Since this bill would conform to IRC 198, which applies only to expenditures paid or incurred on or before December 31, 2000, the provisions of this bill would be available to taxpayers only for 1999 and 2000.

This bill would conform state law to current federal law, thereby reducing the complexity of California tax return preparation for taxpayers who elect to expense qualified remediation costs under federal law and who make the same election on their California income or franchise tax return.

This bill would allow taxpayers to make a separate election for federal and state purposes, rather than binding a taxpayer to their federal election. In recent cases where the Legislature has conformed to a federal provision permitting taxpayers to make an election, the state has required taxpayers to receive the same treatment as they receive for federal purposes (i.e., if no election is made for federal purposes, then no election may be made for state purposes and if an election is made for federal purposes, then the taxpayer must also make the same election for state purposes.

#### Technical Consideration

The operative date in this bill is unclear. While the bill applies to taxable/income years beginning on or after January 1, 1999, it also contains language that makes it operative on the first calendar quarter commencing more than 90 days after the effective date of the bill. That operative language is generally used for sales and use taxes.

The B&CTL provision incorrectly makes reference to taxable years. The correct term to describe B&CTL taxpayers' accounting periods is an income year. Amendment 1 would correct a reference in the B&CTL to taxable years.

#### BOARD POSITION

At its March 26, 1998, meeting, the Franchise Tax Board voted 2-0 to support this bill, with Robin J. Dezember, on behalf of Member Craig L. Brown, abstaining.

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FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO AB 2165  
As Amended April 21, 1998

AMENDMENT 1

On page 2, line 23, strike "taxable" and insert:

income